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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,925
Filing Date: September 29, 2003
Appellant(s): LIPSKY ET AL.

Jessica M. Meyers
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 2nd, 2010 appealing from the Office action mailed February 5, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correc.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,617,879	CHUNG	9-2003
6,854,010	CHRISTINA	2-2005
2003/0110503	PERKES	6-2003
2002/0056123	LIWERANT	5-2002
2002/0152432	FLEMING	10-2002

Notice that session VI in appeal brief the appellant stated U.S. Patent No.

6,843,010 is incorrect. Please see Evidence relied up is corrected.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 37-41, and 44-45, and 52-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronald M. Perkes., (hereinafter Perkes) Publication No. US 2003/0110503 A1 in view of Gad Liwerant., (hereinafter Liwerant) Publication No.

US 2002/0056123 A1 further in view of Roger A. Fleming., (hereinafter Fleming)
Publication No. US 2002/0152432 A1.

3. As to claims 1, 37, 55, and 57, Perkes discloses the invention as claimed, Perkes discloses including a method in of using a distributed system for distributing images to client systems, the method comprising: tracking communications received at the distribution system from a client system via a communications link (Internet), a communication received from the client system includes a time associated with the communication [see Perkes, page 9, paragraph 0019](Perkes teaches the broadcast agent, the master agent and the viewer agent are communicatively connected to each other by way of a network, such as by way of the Internet); and for an image is to be distributed by the distribution system to a client system, determining whether time associated with a most recently received communication from the client system is within a certain time period [see Perkes, page 8, paragraph 0078] (Perkes teaches the on/off line status of the viewers computer is determined by the Master Agent); if it is determined that time associated with the most recently received communication from the client system, sending the image to the client system via the communication link [see Perkes, page.8, paragraph 0078-0079] (Perkes teaches if on line, the viewer is" provided certain information about the broadcast segment (digital photos, video or MP3)); and if determined that the time associated with the most recently received communication from the client system, sending has communicated with the distribute

- system via the communication link [see Perkes page. 10, paragraph 0125] (Perkes teaches if the viewer is offline, the Intent to the broadcast notification).
4. However, Perkes does not explicitly disclose “determining that time associated with the most recently received communication from the client is not within certain time period”.
 5. In the same field of endeavor, Fleming discloses (e.g., system and method for detecting process and network failures in a distributed system having multiple independent network). Fleming discloses determining that time associated with the most recently received communication from the client is not within certain time period [see Fleming, fig. 1 and paragraphs 0018, 0020, 0023, 0025 and 0027-0028] (transmit heartbeats on communication path 110-160 to detect a process failure (period of time)).
 6. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fleming's teachings of a sharing a streaming video with the teachings of Perkes to have time associated with the most recently received communication from the client is not within certain time period, for the purpose of providing for detecting process and network failures in a distributed system the user a convenient, an optimal viewing quality, enhanced security [see Fleming, paragraph 0005].
 7. However, Perkes does not explicitly disclose sending the image to the client system via a mechanism other than the communications link.

8. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video).
Liwerant discloses sending the image to the client system via a mechanism other than the communications link [see Liwerant, page.5, paragraph 0052](resolution and/or image quality desired by the user of sender A's computer 10, and the provision of the file in some additional option form, such as recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
9. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have sending an image to the client system via mechanism other than the communication link, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page.14, paragraph 0139].
10. As to claim 2, Perkes discloses the method of claim 1, wherein the communications link is the Internet [see Perkes, page 9, paragraph 0019](Perkes teaches the broadcast agent, the master agent and the viewer agent are communicatively connected to each other by way of a network, such as by way of the Internet).
11. As to claim 3, Perkes does not explicitly disclose the method of claim 1, wherein the mechanism other than the communications includes a physical computer-readable medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses the mechanism other than the communication includes a physical computer-readable medium [see Liwerant, page.5, paragraph 0052](physical medium to be used in sending a physical machine-readable copy of the video

- segment). 15. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have a physical computer-readable medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page. 14, paragraph 0139].
12. As to claim 4, Perkes does not explicitly disclose the method of claim 3, wherein the computer-readable medium includes a disc-based medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses sending the image to the client system via a mechanism other than the communications link [see Liwerant, page.5, paragraph 0052](recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
13. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have a disc-based medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page.14, paragraph 0139].
14. As to claim 5, Perkes does not explicitly disclose the method of claim 3, wherein further comprising if it is determined that the time associated with the most recently received communication from the client system is not within the certain time period.

15. However, Perkes does not explicitly disclose “determining that time associated with the most recently received communication from the client is not within certain time period”.
16. In the same field of endeavor, Fleming discloses (e.g., system and method for detecting process and network failures in a distributed system having multiple independent network). Fleming discloses determining that time associated with the most recently received communication from the client is not within certain time period [see Fleming, fig. 1 and paragraphs 0018, 0020, 0023, 0025 and O027-O028] (transmit heartbeats on communication path 110-160 to detect a process failure (period of time)).
17. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fleming's teachings of a sharing a streaming video with the teachings of Perkes to have time associated with the most recently received communication from the client is not within certain time period, for the purpose of providing for detecting process and network failures in a distributed system the user a convenient, an optimal viewing quality, enhanced security [see Fleming, paragraph 0005].
18. However, Perkes does not explicitly disclose recording the image on the computer-readable medium.
19. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses recording the image on the computer-readable medium [see Liwerant, page.5, paragraph O052](resolution and/or image quality desired by the user

- of sender A's computer 10, and the provision of the file in some additional option form, such as recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
20. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have recording the image on the computer-readable medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page. 14, paragraph 0139].
21. As to claim 38, Perkes discloses the system of claim 37, wherein the communications link is the Internet [see Perkes, page 9, paragraph 0019](Perkes teaches the broadcast agent, the master agent and the viewer agent are communicatively connected to each other by way of a network, such as by way of the Internet).
22. As to claim 39, Perkes does not explicitly disclose the system of claim 37, wherein the mechanism is a physical computer-readable medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses the mechanism other than the communication includes a physical computer-readable medium [see Liwerant, page.5, paragraph 0052](physical medium to be used in sending a physical machine-readable copy of the video segment).
23. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have a physical computer-

- readable medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page. 14, paragraph 0139].
24. As to claim 40, Perkes does not explicitly disclose the system of claim 39, wherein the computer-readable medium is a disc-based medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses sending the image to the client system via a mechanism other than the communications link [see Liwerant, page.5, paragraph 0052](recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
25. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have a disc-based medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page.14, paragraph 0139].
26. As to claim 41, Perkes does not explicitly disclose the system of claim 39, including a component that records the package of image on the computer- readable medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses recording the image on the computer-readable medium [see Liwerant, page.5, paragraph 0052](resolution and/or image quality desired by the user of sender A's computer 10, and the provision of the file in some additional option form, such as recorded on CD- ROM and sent to the user of sender's computer 10 by

- postal service). 34. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have recording the image on the computer-readable medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page. 14, paragraph 0139].
27. As to claim 44, Perkes discloses the system of claim 37, including a component that sends via the communications link a package of images to a client system [see Perkes, page. 10, paragraph 0106] (Perkes teaches if online the Broadcast agent can start to send content (digital photos, video or MP3) as a broadcast segment to the viewer).
28. As to claim 45, Perkes discloses the system of claim 37, wherein each of package of images includes images selected based on preference for the client system to which the package is to be sent [see perkes, page 5, paragraph O056](Perkes teaches based on user profile).
29. As to claim 57, Perkes and Liwerant do not explicitly disclose the computer-readable medium of claim 55 wherein the communication received from the client system is a heartbeat that is sent periodically to the distribution system by the client system.
30. In the same field of endeavor, Fleming discloses (e.g., system and method for detecting process and network failures in a distributed system having multiple independent network). Fleming discloses wherein the communication received from the client system is a heartbeat that is sent periodically to the distribution system by

- the client system [see Fleming, fig. 1 and paragraphs 000018, 0020, 0023, 0025 and 0027-0028](transmit heartbeats on communication path 60 to detect a process failure).
31. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fleming's teachings of a sharing a streaming video with the teachings of Perkes to have a heartbeat communications, for the purpose of providing for detecting process and network failures in a distributed system the user a convenient, an optimal viewing quality, enhanced security [see Fleming, paragraph 0005].
32. Claims 6, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronald M. Perkes., (hereinafter Perkes) Publication No. US 2003/0110503 A1 in view of Gad Liwerant., (hereinafter Liwerant) Publication No. US 2002/0056123 A1, further in view of Christian et al., (hereinafter Christian) U.S. Patent No. 6,854,010.
33. As to claim 6, Perkes discloses the method of claim 1, wherein the recorded indication wherein it is determined that the client system has communicated via the communications link [see Perkes, page 8, paragraph 0078] (Perkes teaches the on/off line status of the viewers computer is determined by the Master AgenO if the time associated with the last received communication for the client system is within a certain period [see Perkes, paragraphs 0050, 0052] (using Delivery Scheduler to

- utilize predetermined times to delivery data to clients). However, Perkes does not explicitly a time associated with the received communication from the client system.
34. In the same field of endeavor, Christian discloses (e.g., Multi-Location management system). Christian discloses a time associated with the received communication from the client system [see Christian, col. 10, lines 11-30] (the date and time stamp of the last communication with all interface connected to that network transceiver).
35. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Christian's teachings of Multi-Location management system with the teachings of Perkes to have a time associated with the received communication from the client system, for the purpose of providing security to the workstations and any devices connected to the network transceiver [see Christian, col.2, lines 28-41].
36. As to claim 42, Perkes discloses the system of claim 37, wherein the determination is made based on when a client system communicated with the image distribution system via the communication link. However, Perkes does not explicitly disclose the client system last communicated via the communication link.
37. In the same field of endeavor, Christian discloses (e.g., Multi-Location management system). Christian discloses determining is made based on when a client system last communication via the Internet [see Christian, col. 10, lines 11-30] (the date and time stamp of the last communication with all interface connected to that network transceiver). 46. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Christian's

teachings of Multi-Location management system with the teachings of Perkes to have determining based on the last communication via the Internet, for the purpose of providing security to the workstations and any devices connected to the network transceiver [see Christian, col.2, lines 28- 41].

38. Claim 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronald M. Perkes., (hereinafter Perkes) Publication No. US 2003/0110503 A1 in view of Gad Liwerant., (hereinafter Liwerant) Publication No. US 2002/0056123 A1, further in view of Chung David., (hereinafter Chung) U.S. Patent No. 6617879.
39. As to claim 7, Perkes does not explicitly disclose the method of 1, wherein when the sending of the image to the client system via the communications link fails. In the same field of endeavor, Cht',.,~'g discloses (e.g., Transparently partitioned communication bus for multi-port bridge for a local area network). Chung discloses sending of the image to the client system via the communication fails [see Chung, col.27, lines 1-13] (if any node for five minutes, the entry for that node is deleted from the look-up table). 49. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chung's teachings of Transparently partitioned communication bus for multi- port bridge for a local area network with the teachings of Perkes to have image sending to client via the communication fails, for the purpose of increasing the data

- packet handling capacity in a multi-port bridge for a local area network [see Chung, col. 2, lines 18-21].
40. Also, Perkes does not explicitly disclose sending the image to the client system via a mechanism other than the communications link.
41. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses sending the image to the client system via a mechanism other than the communications link [see Liwerant, page.5, paragraph 0052](resolution and/or image quality desired by the user of sender A's computer 10, and the provision of the file in some additional option form, such as recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
42. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have sending an image to the client system via mechanism other than the communication link, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page.14, paragraph 0139].
43. Claims 8, 43, 46-49 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronald M. Perkes., (hereinafter Perkes) Publication No. US 2003/0110503 A1 in view of Gad Liwerant., (hereinafter Liwerant) Publication No. US 2002/0056123 A1, further in view of Roger A. Fleming., (hereinafter Fleming) Publication No. US 2002/0152432 A1.

44. As to claim 8, Perkes disclose the method of claim 1, wherein the communication received from the client system is sent periodically by the client system [see Perkes, paragraph 0018]. However, Perkes does not explicitly disclose communication received from the client system is a heartbeat that is sent periodically by the client system.
45. In the same field of endeavor, Fleming discloses (e.g., system and method for detecting process and network failures in a distributed system having multiple independent network). Fleming discloses client system is a heartbeat that is sent by the client system [see Fleming, fig. 1 and paragraphs 0018, 0020, 0023, 0025 and 0027-0028] (transmit heartbeats on communication path 110-160 to detect a process failure (period of time)).
46. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fleming's teachings of a sharing a streaming video with the teachings of Perkes to have a heartbeat that is sent by the client system, for the purpose of providing for detecting process and network failures in a distributed system the user a convenient, an optimal viewing quality, enhanced security [see Fleming, paragraph 0005].
47. As to claim 43, Perkes does not explicitly disclose the system of claim 37, wherein the communications received from client system includes heartbeat communications.
48. In the same field of endeavor, Fleming discloses (e.g., system and method for detecting process and network failures in a distributed system having multiple

- independent network). Fleming discloses client system including heartbeat communications [see Fleming, fig. 1 and paragraphs 000018, 0020, 0023, 0025 and 0027-0028] (transmit heartbeats on communication path 110-160 to detect a process failure).
49. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fleming's teachings of a sharing a streaming video with the teachings of Perkes to have a heartbeat communications, for the purpose of providing for detecting process and network failures in a distributed system the user a convenient, an optimal viewing quality, enhanced security [see Fleming, paragraph 0005].
50. 60.As to claim 46, Perkes discloses the invention as claimed, Perkes discloses including a method in a computer system for distribution of images to client systems [see Perkes, page. 10, paragraph 0106] (Perkes teaches if online the Broadcast agent can start to send content (digital photos, video or MP3) as a broadcast segment to the viewer) the method comprising: receiving via the Internet communications from each client system, the communications being HTTP requests [see Perkes, paragraph 0210] (a client program that uses the Hypertext Transfer Protocol (HTTP) to make requests" of Web servers throughout the Internet on behalf of the browser user); recording indication of receipt of the communications from the client system [see Perkes, paragraphs 0078-0079, and 0125] (Perkes teaches the on/offline status of the viewers computer is" determined by the Master Agent); determining whether an image is to be sent to a client system via the Internet based on communications received from the

- client system as indicated by the recorded indications of the receipt of communications system [see Perkes, page 8, paragraph 0078] (Perkes teaches if the viewer on line, the viewer is" provided certain information about the broadcast segment (digital photos, video or MP3), and if the viewer offline, broadcast Notification is stored for future notification); and sending the image to the client communications via the Internet [see Perkes, page 8, paragraph 0078] (Perkes teaches the viewer is provided certain information about the broadcast segment (digital photos, video or MP3)). However, Perkes does not explicitly disclose sending the image to the client system via a mechanism other than the communications link.
51. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses sending the image to the client system via a mechanism other than the communications link [see Liwerant, page.5, paragraph 0052](resolution and/or image quality desired by the user of sender A's computer 10, and the provision of the JTle in some additional option form, such as recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
52. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have sending an image to the client system via mechanism other than the communication link, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page.14, paragraph 0139]. Also, Perkes and Liwerant do not explicitly disclose heartbeat communications.

53. In the same field of endeavor, Fleming discloses (e.g., system and method for detecting process and network failures in a distributed system having multiple independent network). Fleming discloses heartbeat communications [see Fleming, fig. 1 and paragraphs 000018, 0020, 0023, 0025 and 0027- O028] (transmit heartbeats on communication path 110-160 to detect a process failure).
54. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fleming's teachings of a sharing a streaming video with the teachings of Perkes to have a heartbeat communications, for the purpose of providing for detecting process and network failures in a distributed system the user a convenient, an optimal viewing quality, enhanced security [see Fleming, paragraph 0005].
55. As to claim 47, Perkes does not explicitly disclose the method of claim 46, wherein the mechanism is a physical computer-readable medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses the mechanism other than the communication includes a physical computer-readable medium [see Liwerant, page.5, paragraph O052](physical medium to be used in sending a physical machine-readable copy of the video segment).
56. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have a physical computer-readable medium, for the purpose of providing for the user a convenient, an optimal

viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page. 14, paragraph 0139].

57. As to claim 48, Perkes does not explicitly disclose the method of claim 47, wherein the computer-readable medium is a disc-based medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses sending the image to the client system via a mechanism other than the communications link [see Liwerant, page.5, paragraph 0052](recorded on CD-ROM and sent to the user of sender's computer 10 by postal service). 68. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a sharing a streaming video with the teachings of Perkes to have a disc-based medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page.14, paragraph 0139].
58. As to claim 49, Perkes does not explicitly disclose the method of claim 47, including recording the image on the computer-readable medium. In the same field of endeavor, Liwerant discloses (e.g., Sharing a streaming video). Liwerant discloses recording the image on the computer-readable medium [see Liwerant, page.5, paragraph 0052](resolution and/or image quality desired by the user of sender A's computer 10, and the provision of the file in some additional option form, such as recorded on CD-ROM and sent to the user of sender's computer 10 by postal service).
59. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Liwerant's teachings of a

- sharing a streaming video with the teachings of Perkes to have recording the image on the computer-readable medium, for the purpose of providing for the user a convenient, an optimal viewing quality, enhanced security [see Liwerant, page.6, paragraph 0059 and page. 14, paragraph 0139].
60. As to claim 51, Perkes discloses the method of claim 46, including sending via the Internet the image to a client system [see Perkes, page. 10, paragraph 0106] (Perks teaches if online the Broadcast agent can start to send content (digital photos, video or MP3) as a broadcast segment to the viewer).
61. Claim 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronald M. Perkes., (hereinafter Perkes) Publication No. US 2003/0110503 A1 in view of Gad Liwerant., (hereinafter Liwerant) Publication No. US 2002/0056123 A1, further in view of Roger A. Fleming., (hereinafter Fleming) Publication No. US 2002/0152432 A1 and further in view of Christian et al., (hereinafter Christian) U.S. Patent No. 6,854,010.
62. As to claim 50, does not explicitly disclose the method of claim 46, wherein the determination is made based on when a client system last sent communication via the Internet. In the same field of endeavor, Christian discloses (e.g., Multi-Location management system). Christian discloses determining is made based on when a client system last communication via the Internet [see Christian, col.10, lines 11-30] (the

date and time stamp of the last communication with all interface connected to that network transceiver).

63. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Christian's teachings of Multi-Location management system with the teachings of Perkes to have determining based on the last communication via the Internet, for the purpose of providing security to the workstations and any devices connected to the network transceiver [see Christian, col.2, lines 28- 41].

(10) Response to Argument

Appellant argue that Perkes and Fleming does not disclose or suggest "if it is determined that time associated with the most recently received communication form the client system is within the certain time period, sending the image to the client system via the communication link".

Examiner respectfully disagrees. Applicant argument is vague. Examiner stated that perkes discloses if it is determined that time associated with the most recently received communication form the client system is within the certain time period, sending the image to the client system via the communication link as shown in perkes page.8 paragraph 0078-0079 determining off/online status (period of time) of the viewer computer is determined by the Master agent).

Appellant argue that Perkes, Fleming, and Liwerant do not disclose or suggest "if it is determined that that the time associated with the most recently received

communication from the client system is not within the certain time period, sending the image to the client system via a mechanism other than the communications link".

Examiner respectfully disagrees. Applicant argument is vague. Examiner stated that Perkes if it is determined that that the time associated with the most recently received communication from the client system is not within the certain time period as, sending the image to the client system via a mechanism other than the communications link as shown in page.8, paragraphs 0078-0079 if online (not within time period), the viewer is provided certain information about the broadcast segment (digital photo, video MP3).

Appellants argue that Perkes, Fleming do not disclose or suggest whether the package of images should be distributed to the client system via the communications link or via a mechanism other than the communications link based on when the client system last communicated with the image distribution computing system via the communications links".

Examiner respectfully disagrees, since the examiner stated Perkes teaches the package of images should be distributed to the client system via the communications link based on when the client system last communicated with the image distribution computing system via the communications links as shown in page.8, paragraphs 0078-0079 base on if online (not within time period), the viewer is provided certain information about the broadcast segment (digital photo, video MP3). The examiner also state that perkes does not explicitly disclose sending the image to the client system via a mechanism other than the communication link (offline), the Liwerant discloses sending

the image to the client system via a mechanism other than the communication link as shown in Liwerant, page.5, paragraph 0052 teaching recorded on CD-ROM and sent to the user of sender's computer 10 by postal services.

Appellants argue that Perkes, Liwerant, and Fleming do not disclose or suggest "determining whether an image is to be sent to the client system via the Internet or via some other mechanism based on heartbeat communications received from the client system as indicated by the recorded indications of the receipt of heartbeat communications".

Examiner respectfully disagrees. Applicant argument is vague. Examiner stated that perkes disclose determining whether an image is to be sent to the client system via the Internet or via some other mechanism as shown perkes page.10, paragraph 0125, if viewer offline, the intend tot he broadcast notification which mean if offline then use others than mechanism. The examiner also stated that however, Perkes does explicitly disclose based on heartbeat communications received from the client system as indicated by the recorded indications of the receipt of heartbeat communications. But Fleming disclose based on heartbeat communications received from the client system as indicated by the recorded indications of the receipt of heartbeat communications as shown in Fleming fig.1, paragraphs 0018, 0020, 0023 and 0027-0028 teaching transmitting heartbeat on communication path 110-160 to detect a process failure.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/TAMMY THANH NGUYEN/

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/William C. Vaughn, Jr./

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